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| 09/960,712      | 09/21/2001  | Stan J. Simpson      | 08998-00693         | 4279             |

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EXAMINER

TRAN, THUY VAN

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3652

DATE MAILED: 01/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/960,712

Applicant(s)

SIMPSON ET AL

Examiner

Thuy v. Tran

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 15,30 and 31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14,16-29 and 32-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 September 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of Invention I, claims 1-14, 16-29 and 32-46 in Paper No. 7 is acknowledged.

Claims 15, 30 and 31 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Inventions, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

### ***Specification***

The disclosure is objected to because of the following informalities: throughout the specification, for example in page 10, line 12, the angle between the front surface (16) and the lateral inner surface (17) was indicated in the specification as angle **K**. However, from the drawings, especially in Figure 7, that angle was indicated as **J**. Same problem occurs for the angle between the roller and the carrier front surface as well.

Appropriate correction is required.

### ***Drawings***

Figures 1-5 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13, 14, 28 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites the limitation "the width" in line 2. There is insufficient antecedent basis for this limitation in the claim. Same problem occurs in respective claims 14, 28 and 29 as well.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-13, 16-28 and 32 (as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by JP 5-70092 A (JP '092).

JP '092 discloses a mast for forklift truck comprising a carriage assembly 3, Fig. 6, having a first upper roller 6a, a first lower roller 6b, a second upper roller 6a, and a second lower roller 6b and a front surface 7, and a first rail section 10 including a first rail 1 and a second rail 1 positioned substantially parallel to each other, each rail 1 having a back inner surface 5, a front inner surface (the opposed surface) and a lateral inner surface (middle portion), wherein the angle between the first upper roller 6a and the front surface <sup>7</sup> is greater than 90.5° and about 93.5°, and the angle between the

front inner surface 5 and the lateral inner surface is greater than about  $90.5^\circ$  and about  $93^\circ$ , and a portion of the width of the first rail section is reduced.

Claims 1-6, 9, 10, 13, 14, 16-21, 24, 25, 28, 29, 32, 34, 37-46 (as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Yarris 4,124,104.

Yarris '104 discloses a mast for fork lift comprising a carriage 24, having a first upper roller 68, a first lower roller 70, a second upper roller 68, a second lower roller 70 and a front surface, a first rail section including a first and second rail 41 positioned substantially parallel to each other, each rail comprises a back inner surface, a lateral inner surface and a front inner surface wherein the respective angle between the first and second upper roller surface with respect to the front surface is about  $92.5^\circ$  to about  $93.5^\circ$ .

With regard to the limitation "the angle between said front inner surface of said first rail and said lateral inner surface is greater than about  $90.5^\circ$ ", as broadly claimed, since  $89.9^\circ$  is about  $90.5^\circ$  and the angle between the front inner surface and the lateral inner surface as shown in Yarris appears to be  $90^\circ$ , thus  $90^\circ$  is greater than about  $90.5^\circ$ .

Claims 1-14, 16-29, 32-46 (as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Yarris 4,035,040.

Yarris '040 discloses a mast for fork lift comprising a carriage assembly including a first upper roller 10, a first lower roller, a second upper roller, a second lower roller (shown in Wagner et al. 3,851,732 which is incorporated herein), and a front surface 14, a first rail

section comprising a first rail 12 and a second rail (not shown) each rail having a back inner surface 22, a lateral inner surface 18 and a front inner surface 20, wherein the angle between the first upper roller 10 and the front surface 14 is in the range of about  $92.5^{\circ}$  to about  $93.5^{\circ}$ , and the angle between the front inner surface 20 and the lateral inner surface 18 is in the range of about  $91.5^{\circ}$  to about  $92.5^{\circ}$  and wherein a portion of the width of the rail section (between back inner surface 22 and lateral inner surface 18) is reduced.

Claims 1-4, 7, 8, 11-14, 16-19, 22, 23, 26-29, 32-36, 38, 41 and 44 (as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Kelly, Jr. RE. 30,815.

Kelly, Jr. '815 discloses a mast for fork lift comprising a carriage 14, having a first upper roller 52, a first lower roller 54, a second upper roller 52, a second lower roller 54 and a front surface, a first rail section 24 including a first and second rail 30c positioned substantially parallel to each other, each rail comprises a back inner surface, a lateral inner surface and a front inner surface, wherein the angle between the front inner surface and the lateral inner surface is in the range of about  $91.5^{\circ}$  to about  $92.5^{\circ}$ , and wherein a portion 44b, Figure 2, of the width of the first rail section is reduced.

With regard to the limitation "the angle between said first/second upper roller and said front surface is greater than about  $90.5^{\circ}$ ", as broadly claimed, since  $89.9^{\circ}$  is about  $90.5^{\circ}$  and the angle between the upper roller and the front surface as shown in Kelly reference appears to be  $90^{\circ}$ , thus  $90^{\circ}$  is greater than about  $90.5^{\circ}$ .

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Each of the cited references separately discloses a mast for fork lift truck comprising an inclined angle guide rollers and/or slanted guide rail.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy v. Tran whose telephone number is 703-308-2558. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

TVT (TT)

  
**EILEEN D. LILLIS**  
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